

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## DISPOSITION OF SURPLUS FOOD STOCKS LEGISLATION

### Summary of Developments Including Participation and Position of the Association

For the past several months various segments of the food industry, including the canning industry, have concerned themselves with the formulation of appropriate legislation covering the disposition of surplus food stocks, which may be held by the various Federal agencies. A group of Task Committees was appointed by the War Food Administration to consider this question, and a series of meetings of the chairmen of these Task Committees culminated early in January in the drafting of a proposed bill. The chairmen of the several Task Committees covering canned fruits and vegetables, frozen fruits and vegetables, and processed fish, participated actively in this work, and agreed with the proposed bill except with respect to the provisions for the use of industry advisory committees.

It is appropriate at this time to summarize the developments to date and to record formally the participation and position of the Association. The controlling questions were canvassed at the Chicago meeting, and a communication, expressing the views of the canning industry, was addressed to WFA on February 12, 1944, by Marc Hutchinson, the Chairman of the Task Committee of the Canned Fruit and Vegetable Industry. This letter read in part:

As you undoubtedly know, during the current week there has been a Processors' Conference held here in Chicago for the discussion of all questions of interest to the processed foods industry. In view of the vital importance of the subject of disposition of surplus foods to the canning industry, as well as to the entire food processing and distributing industry, it seemed appropriate to canvass the views of those attending the Chicago Conference. The views expressed in this letter reflect the unanimous opinion of the Administrative Council of the National Canners Association.

In forwarding them to you, I reluctantly find myself offering a number of suggestions in considerable disagreement with the draft prepared and circulated. Hence I think you would care to have me state in some detail the

reasons for this disagreement and to offer some suggestions concerning the proposed bill.

1. It is believed that the impact of any sudden drop in demand for processed foods will be primarily upon the processor. Under the present system of Set-Aside or Reservation Orders, the canner is virtually compelled to carry an inventory for governmental purposes, and to do so at his own risk. Insofar as enlisting confidence to secure the maximum 1944 pack, it is essential that there be provided a firm commitment to support these government reservations and to relieve the canner of any additional surplus resulting from his complying with the Government's request that the maximum possible pack be produced in 1944. I am confident that this problem is understood and will be dealt with in the immediate future.

Even so, both logic and history combined make it clear that the existence of a large surplus hanging over the market has a far more drastic effect upon the seasonal processor than upon  
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## CANNED FOOD INDUSTRY ADVISORY COMMITTEES

### Members Have Accepted for Asparagus, Tomatoes, Peas, Corn, Spinach, Lima, Snap Bean Groups

Industry advisory committees are being jointly formed by the Office of Price Administration and the War Food Administration. On March 24 members had been invited to serve and had accepted for the following committees: Canned asparagus, canned spinach and other greens, canned peas, canned sweet corn, canned string beans, canned lima beans, canned tomatoes and tomato products.

The government chairman for the meetings of these groups, dates of which will be announced later, will be John E. Dodds of the Fruit and Vegetable Branch of WFA.

The program of inviting and receiving  
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## WAR CONTRACTS PRICE ADJUSTMENT BOARD ISSUES INTERPRETATIONS UNDER NEW RENEGOTIATION ACT

Interpretations of the new statutory provisions of the Renegotiation Act concerning the \$500,000-dollar exemption, standard commercial articles, competitive bidding, construction contracts, and claims for refunds or credits resulting from profits on excess inventories of certain exempted products were issued by the War Contracts Price Adjustment Board on March 16, 1944. Several of these interpretations are of particular interest to canners.

### The \$500,000 Exemption

As described in the INFORMATION LETTER for March 4, 1944, the new Renegotiation Act exempts from renegotiation all contractors or subcontractors whose total receipts or accruals under renegotiable contracts for fiscal years ending after June 30, 1943, are less than \$500,000. The Board has decided that no determination of excess profits shall be so great that, when such profits are subtracted from the total amount of contracts subject to renegotiation, the total amount received under the contracts is less than \$500,000. For example, if the con-

tractor received in one year a total of \$515,000 subject to renegotiation, the excess profits could not be determined, under this interpretation, to be greater than \$15,000, for any larger amount would reduce the total dollars received under the contracts to less than \$500,000.

### Exemption of Standard Commercial Articles

The Board has also issued an interpretation concerning the exemption of standard commercial articles from renegotiation. This exemption is discretionary with the Board. Under the Act, the Board is authorized to exempt contracts and subcontracts either individually or by general classes or types. The Board has determined, however, that exemption of standard commercial articles will be made on the basis of types or classes, rather than individually. At the present time, the particular standard classes of articles which will be exempted under this interpretation have not yet been defined. The reason for the ruling is stated to

be that individual cases can be dealt with more easily through renegotiation rather than by individual exemptions.

Exemptions of standard commercial articles by classes or types will be made, according to the implications of the ruling, on a case-to-case basis upon the filing of petitions. These petitions are to be filed with the War Contracts Price Adjustment Board, Attention James S. Feight, Secretary, 3E 585, The Pentagon, Washington 25, D. C. Five copies of the petition for exemption are to be filed. The Board has stated in general terms the showing which must be made in the petition. It is understood that no forms or regulations specifying the scope of the petition are proposed by the Board. Since the exemption is, according to the Act, to be made only if the Board decides that conditions affecting the sale of the standard commercial article will reasonably protect the Government against excessive prices, the petition must show facts in detail which prove that ample competition prohibits or prevents unreasonably high prices. This places a large burden upon the petitioner which may be lessened as more complete economic data is developed.

In this connection, it will be recalled that the Canning Industry Plan for 1944 Production states that the industry and the various government agencies should cooperate in securing an exemption of canned fruits, vegetables and fish as standard commercial articles (see INFORMATION LETTER No. 973, February 19, 1944, page 8053).

#### **Exemption of Raw Material Cost and Profits from Excess Inventory**

The new Renegotiation Act also exempts from renegotiation the cost of acquiring an agricultural product which is then processed, refined or treated by the contractor to or beyond the first form or state in which it is customarily sold or in which it has an established market. In this situation, the Board is required by regulations to prescribe a cost allowance substantially equivalent to the amount which the contractor or subcontractor would have realized if he had sold the agricultural product in its first form or state. In other words, the cost of agricultural products purchased by a canner, or grown by a canner, is to be computed at its estimated sales price which the canner would have received if he had sold the raw product which he purchased for canning operations. This estimated sales price is then to be treated as a cost allowance in computing excess profits. These regulations have not yet been issued by the Board.

The same section of the Act, however, also provides that the portion of the profits received under contracts subject to renegotiation which are the result or can be allocated to increments in the value of excess inventory shall be excluded from renegotiation. Excess inventory only means oil, gas, mineral and agricultural products in their first form or state which have been acquired for further processing and which are in excess of the amount of those products necessary to fulfill existing orders or the particular contract. For example, if a canner acquires 50,000 bushels of apples for processing under a government contract but only needs to use 30,000 bushels to fulfill the contract, the 20,000 bushels are excess inventory. Any profit which might be attributable to increase in value of these apples is not to be included in renegotiation.

These two provisions are effective retroactively to the date of the original Renegotiation Act. A credit or refund is therefore due to those persons who made payment of excess profits which included profits from excess inventory. The Board, with respect to profits attributable to excess inventory, prior to the passage of the new Act, rules that applications for credit or refund on excess profits previously repaid to the Government shall be made on or before May 25, 1944. The canner must file with the agency with whom he has the contract a written statement setting forth the sum which he claims to have credited or refunded. The contractor shall later, however, file such other additional financial and other information as may be requested by the agency concerned. This provision for credit or refund of profits attributable to excess inventory only applies to renegotiation proceedings completed for fiscal years ended prior to July 1, 1943.

The pertinent parts of the government release summarizing the interpretations discussed in this article are as follows: (The complete official text will be published when released.)

The new Act exempts from renegotiation contractors or subcontractors whose aggregate receipts or accruals from contracts with the departments of the Government subject to the Act, as well as subcontracts, do not exceed \$500,000 in any full fiscal year ending after June 30, 1943. The Board has adopted the interpretation that no determination of excessive profits shall be made in an amount so great that when deducted from the aggregate amount, of contracts, it will reduce the total below \$500,000. In the case of a fiscal year of less than 12 months, ending after June 30, 1943, this rule is applied on a prorated basis.

Exemption of standard commercial articles under the Renegotiation Act is at the discretion of the Board, which has determined that exemption will be made on the basis of articles by types or classes and not on the basis of individual contracts or individual contractors. Exemptions will be effective with respect to such date as may be specified in the exemption and will apply to amounts received or accrued or to contracts entered into after the specified date.

"Studies of the existence of excessive profits in the standard commercial article field in connection with the Congressional hearings on the amendments to the Renegotiation Act indicated that the production of standard commercial articles purchased in substantial volume for war purposes had generally resulted in excessive profits on renegotiable business both in 1942 and in 1943," the Board's ruling states. "The Congress rejected the suggestion that a basis for exemption existed by reason of the fact a particular article constituted a standard commercial article or was sold under OPA ceiling prices. Furthermore, it is to be noted that the fact that an individual contractor may not be making excessive profits on such an article is of little significance. The status of the individual contractor is more readily dealt with through renegotiation where he can be given a clearance if after examination it is found that no excessive profits exist in the particular case."

In order that useless requests for exemption may be avoided, the Board has made public its conclusions that exemptions under this section of the Act can be made only where competitive conditions have been such as reasonably to protect the Government against excessive prices and on the basis of broad national conditions and considerations and after complete research and development of the factual and legal questions involved.

All requests or petitions for the exemption of a standard commercial article or of types or classes of contracts or subcontracts where it is claimed there is 'effective competition' should be made in writing in quintuplicate and addressed to the War Contracts Price Adjustment Board, Attention James S. Feight, Secretary, 3E 585, The Pentagon, Washington 25, D. C., and should be supported by a full statement of facts setting forth the basis for the requested exemption.

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The fifth ruling, applying to retroactive application of a provision of the new Act exempting from renegotiation profits attributable to increment in the value of 'excess inventory,' states that a contractor shall be deemed to have made timely claim for a credit or refund on any such profits which he originally turned back to the Government if, on or before May 25, 1944, he files with the Secretary of the Department concerned a written statement

requesting a credit or refund of such sum as he may claim to be entitled to have credited or refunded to him. "For the perfection of such claim, however," the ruling continues, "the contractor shall later file such financial and other information as may be prescribed by the Secretary or by the agency authorized to determine the amount of such credit or refund. It is anticipated that the determination of the amount of such credit or refund will be made by the renegotiating agency which conducted the original renegotiation."

This last ruling was also adopted by the Joint Price Adjustment Board on completed renegotiations for fiscal years ended prior to July 1, 1943.

The agencies to which the Renegotiation Act applies are the War, Navy and Treasury Departments, the Maritime Commission, the War Shipping Administration and the Reconstruction Finance Corporation, for four of its subsidiaries—Defense Supplies Corporation, Defense Plant Corporation, Metals Reserve Company and Rubber Reserve Company.

### Protest to Price Regulations Based on New Grounds Arising More Than 60 Days After Issuance Now Can Be Filed at Any Time

As a result of a decision by the Emergency Court of Appeals, the Office of Price Administration amended on March 20, 1944, its Revised Procedural Regulation Number 1 to allow filing of a protest at any time after new grounds for protest arise.

This amendment is the direct result of a decision by the Emergency Court in the case of *R. E. Schanzer Incorporated v. Chester Bowles*, which was decided on March 17, 1944. In that case the Administrator had dismissed the protest on the grounds that it was filed too late. The facts showed that the protest was based on new grounds arising after the issuance of the price regulation, but that the protest was not filed within 60 days after the new grounds were discovered. The protestant appealed to the Emergency Court. The Administrator asked the court to dismiss the case. The court held the protest was filed in time and ordered the Administrator to make a decision on the merits of the protest.

The Emergency Price Control Act provides that protests must be filed within sixty days after the issuance of a price regulation but "at any time after the expiration of such sixty days" any person may file a protest based on new grounds arising after the expiration of the sixty-day period. The court construed this latter provision to mean that there was no time limit, as contended by the Administrator within which a protestant must file a protest

### Ration Points for Pork Cuts

Ration points must be given by primary distributors, when required, for four pork cuts (fat backs, fat back pork, clear plates, and jowls) that are used principally in making sausage and canned meats, the Office of Price Administration announced March 20. This action, taken in Amendment No. 117 to Ration Order 16, became effective March 23.

If point values are restored on these cuts, primary distributors will be required to give points on these fats when they are used for sausage and canned meats.

The point values of sausage and canned meats are based on the point values of the meats from which these products are made. Points required for the finished products are always at the levels which allow enough margin to permit a primary distributor to pay points for fats he acquires for this purpose, OPA said.

based on new grounds discovered after the issuance of the regulation. Therefore, OPA issued the following amendment number 6 to Revised Procedural Regulation 1:

#### PROCEDURE FOR THE ISSUANCE, ADJUSTMENT, AMENDMENT, PROTEST AND INTERPRETATION OF MAXIMUM PRICE REGULATIONS

Section 1300.26 (a) is amended to read as follows:

(a) Any protest against a provision of a maximum price regulation shall be filed with the Secretary, Office of Price Administration, Washington, D. C., within a period of sixty days after the date of issuance of such regulation, regardless of the effective date prescribed therein: *Provided, however*, That a protest based solely upon grounds arising after the date of issuance of a maximum price regulation may be filed at any time after such new grounds arise: *Provided, further*, That protests of any person having his principal place of business in a territory, may be filed with the director of the appropriate territorial office.

This amendment shall become effective March 20, 1944.

### Food License Bill Fails

The Kentucky House, just prior to its adjournment on March 20, failed to pass House Bill 382 providing for the licensing of food manufacturers, wholesalers, and retailers, which had been introduced in that body on February 23.

### NEW FISHERY REGULATIONS

#### Alaska Salmon Areas Reopened; Fishing Periods Extended, Herring Quotas are Increased

New regulations for the protection of the commercial fisheries of Alaska in 1944 were promulgated March 20. Among changes of major importance announced by the Fish and Wildlife Service are the following:

Regulations have been modified in the Bristol Bay area to permit the resumption of commercial fishing for salmon in the Egegik district which was closed to fishing in 1942 and 1943.

Longer and deeper purse seines will be permitted in the southeastern Alaska salmon fishery during 1944. The new maximum size for purse seines is 300 fathoms in length and 400 meshes in depth. Purse seines previously authorized were 200 fathoms in length and 350 meshes in depth.

Herring quotas have been increased substantially in all of the major production areas. The new quotas will permit taking of approximately 80,000,000 more pounds of herring than last year. An increase of 100,000 barrels in the Kodiak area will permit a total take of 300,000 barrels in quota waters during the open season from July 1 to October 15.

In the Prince William Sound area, from June 24 to October 15, a total of 200,000 barrels of herring may be taken—an increase of 125,000 barrels over 1943.

The quota for southeastern Alaska has been doubled—200,000 barrels may be taken during the open season from June 15 to October 15. In addition, 2,000 barrels of herring may be taken for food in southeastern Alaska in each calendar month from October 16 of one year to June 14 of the following year. This provision will be effective beginning October 16, 1944.

Less important changes include:

Fishing in Bristol Bay will open on June 26 because June 25 falls on a Sunday, when commercial fishing for salmon is prohibited by law.

The Ugashik district will close on July 29, a day later than last year.

Mid-week closed periods have been revoked in the Ugashik district so that now the 36-hour weekly closed period will be the only such closure in effect throughout Bristol Bay.

The Alaska Peninsula area will get two additional days of fishing, with August 12 set as the new closing date.

In Zachar and Spiridon bays, both of which are arms of Uyak Bay, the areas open to fishing have been substantially increased.

Even-year closing dates have been applied to Cook Inlet area, with the exception that in the area south of Anchor Point Light additional fishing will be permitted for two days.



Prince William Sound will open July 10 instead of July 5. This change is being made in an effort to build up the depleted early even-year runs of salmon in the same way that has proved so successful in recent odd years.

Poundage and pack quotas for razor clams in the Prince William Sound and Upper River areas have been correlated in a more satisfactory manner. The modification in the regulations will increase the number of cases permitted to be canned during the spring season. The quotas for the fall season, which have not been filled for many years, are considerably reduced.

Gillnetting will be prohibited entirely in the Stikine district prior to June 23, while trolling in the same area will not be allowed between June 1 and June 22, in an effort to rebuild the depleted runs of king salmon.

Purse seines will be permitted to operate in the western offshore section of the South Prince of Wales Island district beginning July 20, or 5 days earlier than the normal season.

As in previous years, the new regulations will be published in codified form and simplified interpretations will be made available in the affected districts.

## HYBRID CORN SEED CEILING

### Dollars-and-cents Prices Permit an Increase Over "Freeze" Rate

Fixed dollars-and-cents ceiling prices for hybrid sweet corn seeds were established March 21 for farmer-producers by the Office of Price Administration.

This action is a change-over from the general "freeze" at the highest prices paid a farmer-producer by a commercial grower during the base period of January 1-May 31, 1943. This is accomplished by Amendment No. 2 to Maximum Price Regulation No. 400, effective March 27.

The new price ceilings allow an increase, over the average "freeze" price, of 1½ cents per pound in the area east of the Mississippi River, excepting the States of Minnesota and Wisconsin. In the area west of the Mississippi River, and in the States of Minnesota and Wisconsin, the maximum prices established represent the highest contract price that was paid a farmer-producer by a commercial grower during the base "freeze" period.

These increases will be absorbed by the commercial grower, and will not cause any increase either to any other distributor or the ultimate farmer-planter. They were made primarily to enable commercial growers to obtain necessary farmer-producer acreages. This was recommended by OPA's Vegetable Seed Industry Advisory Committee and the War Food Administration.

All hybrid sweet corn seed prices are now based upon the maximum prices listed for these base varieties of sweet corn, which are as follows:

Base variety and type	Maximum prices per 100 pounds		
	States of Minnesota and Wisconsin	Area east of Mississippi River (excluding Minnesota and Wisconsin)	Area west of Mississippi River (excluding Minnesota)
Golden Bantam (Open pollinated).....	\$4.75	\$7.50	\$5.00
Golden Cross Bantam (Yellow hybrid).....	8.25	11.00	9.00
Country Gentleman (White hybrid).....	8.50	10.50	10.00

Plus transportation charges from the farm where grown to the buyers' receiving point by a usual route and method of transportation.

In the States of Minnesota and Wisconsin, the maximum prices are reduced by the expenses borne by the commercial grower for services (which were not rendered by him during the base "freeze" period) in connection with the growing, harvesting, loading and transportation of the crop.

In the other areas listed above, the maximum prices are reduced by any expenses borne by the commercial grower.

## Correction on Milk Exemption

It was erroneously reported in last week's INFORMATION LETTER that the Division of Public Contracts of the Department of Labor had extended to December 31, 1944, the exemption of contracts for evaporated milk and powdered skimmed milk from the provisions of Section 1 of the Walsh-Healey Act. The date of December 31 is in error. Instead, the exemption was extended only to May 31, 1944, as reported in the *Federal Register* for March 14.

## Whiting Resigns from WPB

Charles E. Wilson, Executive Vice Chairman of the War Production Board, has announced the resignation of John T. Whiting as Director of WPB's Steel Division. Norman W. Foy, Deputy Director to Mr. Whiting, who has been with the Steel Division more than two years, will succeed him as Director.

## Regulation Specifies Method of Increasing CMP Quotas

Direction 18 to Controlled Materials Plan Regulation 5, covering methods of applying for an increase of quota, has been issued by the War Production Board. Text of the regulation follows:

(a) A person applying for an increase in his quota under paragraph (f) (8) of CMP Regulation No. 5 should show in his letter of application the following information:

(1) Name of product(s) manufactured or description of services rendered;

(2) Show what quarterly quota you were authorized under paragraph (f) in 1943. (If operating on a seasonal basis, show for each quarter of 1943). If you received a special authorization for any quarter, show that for each such quarter in addition to the "base" quota;

(3) Statement of total dollar value of deliveries of your product in 1942, and first and subsequent quarters of 1943, by quarters. Show deliveries for each quarter by principal Claimant Agencies;

(4) Statement of total amount of MRO requested to be authorized per quarter. This should include the base quota already permitted by paragraph (f) (1), (2), or (3) plus the increase requested;

(5) Statement of total amount expended during 1943 for minor capital additions under paragraph (b) (3) of the regulation;

(6) Statement of deliveries of your product scheduled for quarters for which MRO increase is requested;

(7) Any additional information which may be pertinent to proper evaluation of the application.

(b) If any of these questions do not apply to your operations, substitute equivalent information describing the circumstances.

(c) The application should be filed with the War Production Board, Washington 25, D. C., Reference: CMP Regulation No. 5.

## More Organic Nitrogen Allowed

The War Food Administration has announced an action slightly increasing the amount of organic nitrogen which fertilizer manufacturers may use. Amendment No. 1 to Food Production Order No. 12, Revision 2, permits the use of 80 per cent of the organic nitrogen used by fertilizer manufacturers in the 1941-42 fiscal year, rather than the 70 per cent previously allowed. The improved supply of organic nitrogen results from higher production of inedible materials than was originally anticipated.

# CITRUS PRODUCTION

USDA Report Gives Crop Indications as of March 1 for 4 States

Indicated production of oranges, grapefruit in Florida, California, Arizona and Texas, is summarized in a report as of March 1 issued by the Crop Reporting Board of the Department of Agriculture. Following are excerpts from this report:

Total production of oranges (excluding tangerines) in the 1943-44 season is indicated to be 97,684,000 boxes—the largest United States orange crop of record. The orange crop totalled 85,116,000 boxes in 1942-43 and 83,057,000 boxes in 1941-42. In Florida and California, production of early and midseason oranges is estimated at 44,944,000 boxes and Valencias at 48,300,000 boxes. Production last season was 33,341,000 boxes of early and midseason oranges and 48,155,000 boxes of Valencias. The crops of 1941-42 totalled 37,174,000 boxes of early and midseason varieties and 42,181,000 boxes of Valencias.

Total United States grapefruit production is estimated to be 40,570,000 boxes—only 2 per cent less than the record crop of last season but 23 per cent more than the 1941-42 crop.

Production of early and midseason oranges in Florida is estimated at 24,000,000 boxes, an increase of one million boxes over the February 1 estimate. Production last season was 19,100,000 boxes. The Florida Valencia crop is indicated to be 17,500,000 boxes compared with 18,100,000 boxes produced last season. Grapefruit production is estimated at 25,000,000 boxes which is 2,300,000 less than the bumper crop of last year. To March 1, about 3 million boxes of oranges had been canned—an increase of about one-half million over last year. Slightly more than 15 million boxes of Florida grapefruit had been utilized to March 1, which is about 2 million less than utilized to the same date last year. Most of the decrease is accounted for by smaller quantities canned.

Texas grapefruit production is estimated at 17,500,000 boxes—about the same as the crop last season of 17,510,000 boxes. Orange production is estimated at 3,300,000 boxes—20 per cent above the 1942-43 crop of 2,550,000 boxes. The rate of grapefruit processing was increased during February but the total processed to March 1 was still about 500,000 boxes short of the same date last year.

Arizona grapefruit production is estimated at 3,000,000 boxes compared with 2,000,000 boxes last season. The orange crop is expected to total 900,000 boxes compared with 730,000 boxes in 1942-43. About 30 per cent of the grapefruit crop and one-third of the orange crop were picked by March 1.

## GRAPEFRUIT JUICE PRICES ON SALES TO GOVERNMENT

### Order No. 2 to MPR 509 Designates Reductions on February Sales

Price reductions to be made by processors on government sales of grapefruit juice packed during February, 1944, were announced by the Office of Price Administration, in Issuing Order No. 2 under Maximum Price Regulation No. 509, effective March 23. The price reductions for the October 1, 1943, to January 31, 1944, period were specified in Order No. 1 to MPR 509, which appeared in last week's INFORMATION LETTER.

The amount of these reductions, in cents per dozen cans, must be subtracted from the maximum prices announced February 4, 1944, for processor sales to the Government. These appeared in the February 5 LETTER and included a maximum raw fruit cost increase for the 1944 crop over the 1943 crop. Reductions provided in Order No. 2 will adjust those maximum prices so that they include only the increases actually paid by processors

for the raw fruit. Increases over last year's raw fruit costs in civilian sales, which constitute about 65 per cent of the 1944 pack of grapefruit juice, are covered by a subsidy, OPA explained.

Text of Order 2 to MPR 509 follows:

For the reasons set forth in an opinion issued simultaneously herewith, and in accordance with section 2.1 (c) of Maximum Price Regulation 509, it is ordered:

(a) For grapefruit juice packed during the month of February, 1944, processors shall reduce the named maximum prices for government sales as listed in section 2.1(a) of Maximum Price Regulation No. 509 by the amounts set forth below respectively for the period of pack, State or area, and container size. The resulting figures shall be the processors' maximum prices for grapefruit juice packed during February, 1944, for sales to governmental procurement agencies. For the purpose of applying the monthly area grapefruit juice cost reduction the States of Florida and Texas shall be treated as two separate areas.

(b) Reduction per dozen containers:

State or area	Style of pack	Grade	Period of pack	Reduce maximum price named in sec. 2.1 (a) for government sales per dozen containers by amounts set forth below		
				No. 2 can	No. 3 cyl. can	No. 10 can
Florida.....	All.....	All.....	February 1944...	\$ .110	\$ .275	\$ .583
Texas.....	All.....	All.....	February 1944...	\$ .110	\$ .275	\$ .583
California and Arizona.....	All.....	All.....	February 1944...	\$ .180	\$ .450	\$ .954

(c) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective March 23, 1944.

Of the fruit picked to March 1 about 30 per cent of the grapefruit and 8 per cent of the oranges were processed.

California Navel and miscellaneous oranges are estimated at 20,944,000 boxes and Valencias at 30,800,000 boxes. Production in 1942-43 was 14,241,000 boxes for Navel and miscellaneous varieties and 30,055,000 boxes for Valencias. Harvest of Navel and miscellaneous oranges is completed in northern and central California and is well along in Southern counties. Picking of California Valencias does not usually start until April. In the Desert Valleys of California, grapefruit production is expected to total 1,316,000 boxes compared with 1,254,000 boxes last season. In areas other than the Desert Valleys, the crop is estimated at 1,863,000 boxes, slightly more than the 1,817,000 boxes produced in 1942-43.

## TEXT OF CITRUS JUICE RESERVATION INCREASE

Text of Amendment No. 2 to Food Distribution Order 22.5, which increased the reservation percentages of canned grapefruit juice and canned orange juice, as reported in last week's INFORMATION LETTER, is reproduced below:

Food Distribution Order No. 22.5, issued by the Director of Food Distribution on November 26, 1943, as amended (8 F.R. 16007, 9 F.R. 2322), is further amended as follows:

1. By deleting from § 1425.7 (b) (3) the provisions thereof and inserting, in lieu thereof, the following:

(3) In lieu of setting aside a quantity of canned grapefruit juice equal to 41 per cent of the total of grapefruit juice packed by a canner during the base period, any canner will be deemed to have met the set-aside requirements of this order with regard to canned grapefruit juice if he sets aside all grapefruit juice packed by him and which is in his possession on March 17, 1944, and all grapefruit juice packed by him subsequent to such date, and if the aggregate of such amount is not

less than 32 per cent of the total quantity of grapefruit juice packed by such person during the base period.

2. By adding to § 1425.7 (b), at the end thereof, the following:

(4) In lieu of setting aside a quantity of canned orange juice equal to 43 per cent of the total of orange juice packed by a canner during the base period, any canner will be deemed to have met the set-aside requirements of this order with regard to canned orange juice if he sets aside all orange juice packed by him and which is in his possession on March 17, 1944, and all orange juice packed by him subsequent to such date, and if the aggregate of such amount is not less than 42 per cent of the total quantity of orange juice packed by such person during the base period.

3. By deleting from Column B of Table 1 the figures "38" and "42" and inserting, in lieu thereof, the figures "41" and "48," respectively.

This amendment shall become effective at 12:01 a. m. e. w. t., March 17, 1944. With respect to violations, rights accrued, liabilities incurred, or appeals taken under said Food Distribution Order No. 22.5 prior to the effective time of this amendment, all of the provisions of the said Food Distribution Order No. 22.5 in effect prior to the effective time of this amendment shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, appeal, right, or liability.

### 1943 Canned Tomato Pack

The total pack of canned tomatoes for 1943 amounted to 25,026,561 actual cases, according to the Association's Division of Statistics. This compares with a total pack in 1942 of 35,453,580 actual cases. On the basis of 24/2's, the 1943 pack amounts to 29,210,840 cases, and the 1942 pack totaled 41,251,782 cases.

The following table presents the canned tomato packs for 1942 and 1943 by States:

States	1942 Actual cases	1943 Actual cases
New York.....	1,253,676	684,301
Maryland.....	8,093,323	7,423,864
Delaware.....	650,676	569,118
New Jersey.....	278,131	239,611
Pennsylvania.....	790,469	944,475
Virginia—West Virginia..	2,494,122	2,867,027
Ohio.....	1,924,148	682,435
Indiana.....	3,069,736	1,974,846
Tennessee—Kentucky..	1,340,218	580,398
Arkansas—Missouri.....	4,038,682	1,182,289
Colorado.....	263,097	380,080
Utah.....	989,872	903,304
California.....	5,617,708	3,623,960
Other States.....	4,029,122	3,001,847
Total.....	35,453,580	25,026,561

### Key Employee Deferment

Pending an agreement among government agencies that would cover deferment of key men under 26 employed in industries other than those under the direct supervision of the War Production Board, the Vice Chairman of the WPB has held up the issuance of a letter to manufacturers engaged in war production outlining a policy on such deferments. The Director of the Selective Service, it is understood, desires that the policies adopted be such as to cover employees of industries operating under the Solid Fuels Administration, Office of Defense Transportation, War Food Administration, and other agencies.

The Association has again brought to the attention of appropriate agencies the problem confronting the canning industry, which this year will have to depend to a very large extent on inexperienced labor and which cannot make use of such labor if it is deprived of the services of necessary supervisory and key employees.

### McGee Named to WMC

Appointment of Vernon A. McGee of Wichita Falls, Texas, as Deputy Executive Director of the War Manpower Commission was announced March 20 by Chairman Paul V. McNutt. He succeeds James H. Bond, Director of Region X, who is returning to his headquarters in Dallas, Texas, after spending the past year in Washington assisting Lawrence A. Appley, Deputy Chairman and Executive Director, in addition to carrying on as Director of Region X. Mr. McGee has been Assistant Executive Director for Business Management in the WMC since August, 1943.

### Field Made OPA Counsel

Richard H. Field of Boston on March 21 was appointed General Counsel of the Office of Price Administration by Price Administrator Chester Bowles. He succeeds George J. Burke, who has returned to private law practice.

For two years, beginning in January, 1942, Mr. Field served as Regional Attorney in the Boston OPA office and handled the legal phases of rationing, price and rent control. Since December, 1943, he has been Acting General Counsel of OPA in Washington.

### Interpretation to CMP Reg. 5 Deals with Cost of Labor

Interpretation 11 to Controlled Materials Plan Regulation 5, covering the purchaser's cost of labor for minor capital additions under terms of paragraph (b) (3) of the regulation has been issued by the War Production Board. Text of the interpretation follows:

Paragraph (b) (3) permits the use of the MRO symbol and rating to get minor capital additions which cost not more than \$500 "excluding the purchaser's cost of labor." The labor costs which may be disregarded in this connection are the services of the purchaser's own regular employees, additional employees hired for installing new equipment or doing construction, and fees paid to independent contractors who install equipment or do construction where, under normal business practice, the fee is paid primarily for services as distinct from materials.

For example, if a purchaser of a piece of machinery costing \$500 pays the seller an additional installation fee of \$50 which is normally a separate charge, if he hires an independent contractor to install the machinery for \$50, the \$50 payment may be disregarded even though the seller or independent contractor furnishes a few minor material additions such as wiring or pipe connections, bracing, etc. On the other hand, if the purchaser hires a building contractor to construct an addition to his plant, under circumstances where the contractor would normally charge a single fee including building materials, labor and the contractor's profit, the total fee must be included in the cost and the contractor's labor may not be deducted, since the contractor is paid primarily for the completed addition rather than for the labor of installing property separately purchased. Likewise, if the seller normally makes a single charge including installation, this cost of installation must be included.

Direction 15 explains the rules for buying \$500 worth of materials needed for installation or relocation of equipment which is not bought by use of the MRO rating or symbol. In that case, the same principles apply in determining what labor costs are to be included.

### Ozark Officers for 1944

Following are the 1944 officers of the Ozark Canners Association, Inc., elected at their recent annual convention: President, George T. Sanders, Fayetteville, Arkansas; vice-president, M. E. Kuhn, Pattonsburg, Missouri; treasurer, Porter S. Lucas, Crane, Missouri; secretary, F. R. Spurgin, Fayetteville, Arkansas.



## WFA Food Program Report

The War Food Administration announced on March 20 the issuance of a 96-page booklet entitled "Food Program for 1944."

This booklet reviews the situation with respect to both production and distribution problems as related to military, Lend-lease, and civilian food needs. It also presents a picture of the world food situation. Free copies of the report may be obtained from the Press Service, U. S. Department of Agriculture, Washington 25, D. C.

## Bill Proposes Free Federal Inspection of Sea Food

Representative James Domengeaux, of Louisiana, introduced on March 21, a bill to authorize free government inspection of seafood (H. R. 4448). The present law provides that the Food and Drug Administration may inspect, at the request of the packer, seafood for determining compliance with the Federal Food, Drug, and Cosmetic Act. The packer requesting such an inspection now must pay a fee for this service. The proposed bill would require this service to be made without charge to the packer.

## Rations for Fishermen

Provision has been made for commercial fishermen and for persons employed on inland water carriers to receive an allowance of ration points for all rationed foods on the basis of four meals per day, the Office of Price Administration said March 19. This is accomplished through Amendment No. 52 to General Ration Order 5, which became effective March 23, 1944.

The allowance may be obtained by applying to the local War Price and Rationing Board, using a form provided for that purpose. Both canned fruits and vegetables and meats are included, the allowance being seven-tenths of a point per meal per person for processed foods.

## Ration Banking Advisor

William Fulton Kurtz, president of the Pennsylvania Company of Philadelphia, will advise the Office of Price Administration regarding problems arising from ration banking, Bryan Houston, Deputy Administrator for Rationing, announced March 20.

## WFA TAKES ACTION TO FREE MORE COLD STORAGE SPACE

### Limits the Use of Scarce Warehouse Facilities for Certain Foods

The War Food Administration on March 21 issued orders designed to hasten movement of certain foods from last year's production which still remain in cold storage to make room for the inflow of perishable commodities from 1944 production.

By far the largest portion of the total quantity of food in cold storage warehouses, including those products to which the order specifically applies, is privately owned in regular commercial channels for civilian use, it was stated.

The new action, provided in amendments to Food Distribution Orders 70, 70.1, 90 and 90.1, and effective March 22, requires that stocks of frozen poultry, frozen and cold-pack fruits and vegetables, and fruit and vegetable purees in cold storage warehouses of more than 10,000 cubic feet capacity, be reduced by 20 per cent within 30 days, and that all products that have been in such storage 10 months or longer be removed, unless specific authorization is obtained from the Director of Food Distribution to keep the commodities in cold storage.

The restricted commodities designated under the terms of Amendment 2 to FDO 70.1 as not to be placed in refrigerated storage are the following:

- (1) Evaporated milk
- (2) Canned condensed milk
- (3) Dried skim milk
- (4) Dried whole milk in gas filled hermetically sealed containers
- (5) Sterile canned meats
- (6) Canned processed cheese
- (7) All types of flour and dry cereals
- (8) Canned fruits and vegetables except citrus concentrates
- (9) Beer, wines, and liquors
- (10) Nuts in the shell (including peanuts)
- (11) Canned fish and canned shellfish in hermetically sealed containers except frozen crabmeat and shrimp
- (12) Carter spread

Cold storage stocks of perishable commodities normally are largely depleted before new production starts to flow into storage. This year, however, there has been a strong tendency on the part of large commercial purchasers and users of food to pile up supplies in excess of normal requirements, said WFA. Coupled with the need for space for handling government supplies, this tendency has crowded refrigerated facilities to the point where certain foods have had to be removed from this type of storage and

a continual outward movement of other foods encouraged. The WFA action supplements previous orders limiting the kinds and quantities of food which may be kept in cold storage.

On March 1, 1944, U. S. public freezer space (below 30° F.) was 92 per cent occupied. This occupancy compares with 80 per cent on February 1, and 64 per cent on March 1, 1943. Occupancy of U. S. public cooler space (30° and over) was 73 per cent on March 1, 1944; 68 per cent on February 1, 1944; and 57 per cent on March 1, 1943.

## Purchase Program for Canned Alaska Salmon Is Announced

The Office of Distribution, War Food Administration, announces that it will now receive offers for the sale of canned fish required to be set aside in 1944 under the terms of Food Distribution Order No. 44.

Purchases again will be made by negotiated contracts executed in the name of the Federal Surplus Commodities Corporation. The contract terms and conditions are set forth in three separate documents this year: Form FDA-474, Standard Contract Conditions, contains conditions which apply to purchases of all commodities; Form SCB-64, Canned Fish-General Contract Conditions, contains additional terms applying to purchases of all species of canned fish; and Form SCP 1873, Canned Alaska Salmon-Order of Sale which details the conditions, applying specifically to that type of fish.

The Notice of Tender of Delivery, Form SCP 1873A, is a revision of the old Form SCP-1483A, but it will be used for the same purpose and in the same manner as the old form. Additional copies of this form may be obtained from the shipping representative, Seattle office.

Canners who expect to make offers during 1944 are requested to submit their proposals on the offer of sale form as soon as practicable. Offers may be submitted prior to August 15, 1944, but the indemnity feature of the contract will not become applicable unless the contracts are signed prior to May 1, 1944. A separate contract must be executed to cover each canning plant from which canned Alaska salmon will be delivered to FSCC. One contract number will be assigned each operating plant.

Offers should be mailed to the Fish Products Division, Special Commodities Branch, Office of Distribution, War Food Administration, Washington 25,

D. C., in an original and four completely executed copies. Notice of acceptance will be given by telegram filed at Washington, D. C., within 15 days after the date of the offer.

Further details with respect to the program may be obtained from Robert W. Tyson of the Washington office. Questions pertaining to shipping should be referred to Carl D. Payne, shipping representative, 620 Alaska Bldg., Seattle 4, Washington.

### CANNED FOOD INDUSTRY ADVISORY COMMITTEES

(Continued from page 8131)

ing acceptances for membership in other processed foods industry advisory committees is continuing and the names of members will be published in the INFORMATION LETTER as released.

Names of the members of the seven committees for which acceptances have been received, follow:

#### CANNED SWEET CORN

Leland S. Argall, California Packing Corp., Rochelle, Ill.  
Garth E. Carrier, Iowa Canning Co., Vinton, Iowa  
C. H. Chitham, Milford Canning Co., Milford, Ill.  
Frank M. Cravena, Houghland Packing Co., Franklin, Ind.  
Stuart K. Farrar, Comstock Canning Corp., Newark, N. Y.  
Henry W. Hartle, Owatonna Canning Co., Owatonna, Minn.  
John P. Kraemer, Mammoth Spring Canning Co., Sussex, Wisc.  
Fred M. Moss, Idaho Canning Co., Fayette, Idaho  
W. P. Reynolds, Libby, McNeill & Libby, Chicago, Ill.  
James M. Shriver, The B. F. Shriver Co., Westminster, Md.  
James I. Smith, The Esmeralda Canning Co., Circleville, Ohio  
Bruce White, H. C. Baxter & Bro., Brunswick, Me.

#### CANNED ASPARAGUS

Sidney B. Cutright, Illinois Canning Co., Hoopston, Ill.  
Vincent A. Davi, Western California Cannery, Inc., Antioch, Calif.  
W. A. Gellersen, Libby, McNeill & Libby, San Francisco, Calif.  
J. Oscar Hunt, Edgar F. Hurff Co., Swedesboro, N. J.  
Chester A. Ray, New Era Canning Co., New Era, Mich.  
E. N. Richmond, Richmond-Chase Co., San Jose, Calif.

### Premium Pay Practices Inaugurated by Cannery After October 3, 1942, Can Be Discontinued Without Approval of War Labor Board

A ruling has been obtained from the Third Regional War Labor Board that premium pay practices for work on the sixth and seventh day of the regular workweek, instituted as a result of Executive Order 9240, after October 3, 1942, can be discontinued by cannery without first obtaining approval of the National War Labor Board.

It will be recalled that the Secretary of Labor, on August 25, 1943, issued an order exempting the fruit and vegetable packing and canning industries from the provisions of Executive Order 9240 (see the INFORMATION LETTER for August 28, 1943). Despite this exemption, the Third Regional War Labor Board on October 25, 1943, ruled that cannery could not reduce or abandon premium payments instituted by them in accordance with Executive Order 9240 without first obtaining the approval of the National War Labor Board. The reason given for this ruling was the provision

of Executive Order 9250 prohibiting any decrease in wages below the rate paid during the period from January 1, 1942, to September 15, 1942.

Counsel for the National Cannery Association pointed out to the Third Regional War Labor Board that Executive Order 9240 did not become effective until after September 15, 1942, so that the prohibition against reducing wages would not apply to premium payment practices instituted by cannery after September 15, 1942. This position has been confirmed by a letter from the Regional Board to counsel for the Association dated March 21, 1944. It is now clear that cannery, in accordance with the exemption granted by the Secretary of Labor, may stop the premium payment practices concerning the sixth and seventh days of the workweek without first obtaining approval from the National War Labor Board if cannery had begun those payments to comply with Executive Order 9240 after September 15, 1942.

#### CANNED LIMA BEANS

Carleton Draper, Draper Canning Company, Milton, Del.  
Gilbert Hipke, A. T. Hipke Sons Company, New Holstein, Wisc.  
F. L. Shannon, W. N. Clark Company, Rochester, N. Y.  
C. B. Torsch, The Torsch Canning Company, Baltimore, Md.  
G. L. Webster, G. L. Webster Company, Inc., Cheriton, Va.

#### CANNED TOMATOES AND TOMATO PRODUCTS

Joseph F. Barker, Utah Canning Co., Ogden, Utah  
C. R. Barnhart, Winorr Canning Co., Circleville, Ohio  
Ralph S. Brown, Brown Canning Co., Snow Hill, Md.  
G. A. Filice, Filice & Perrelli Canning Co., Inc., Richmond, Calif.  
W. H. Foster, Foster & Wood Canning Co., Lodi, Calif.  
W. T. Gibbs, Gibbs & Co., Inc., Baltimore, Md.  
John R. Hinton, Blundon & Hinton, Inc., Reedville, Va.  
L. N. Mellus, H. J. Heinz Co., Pittsburgh, Pa.  
Paul Moxingo, Stokely Bros. & Co., Inc., Indianapolis, Ind.  
William H. Ritter, Jr., P. J. Ritter Co., Bridgeton, N. J.  
Carl Scudder, John S. Mitchell, Inc., Windfall, Ind.  
Ryland Thomas, Hargis Canneries, Inc., Fayetteville, Ark.  
Harold J. Torrey, Comstock Canning Corp., Newark, N. Y.

Allan R. Warehime, Hanover Canning Co., Hanover, Pa.  
M. E. Wagenheim, California Conserving Co., San Francisco, Calif.  
Oliver G. Willits, Campbell Soup Co., Camden, N. J.

#### CANNED SPINACH AND OTHER GREENS

F. A. Blankenship, Good Canning Corp., Fort Smith, Ark.  
Harry Chapman, Perfection Canning Co., Newark, N. Y.  
W. A. Chick, California Packing Co., San Francisco, Calif.  
M. M. Clark, Harlingen Canning Co., Harlingen, Tex.  
George N. Pfarr, Tri Valley Packing Association, San Francisco, Calif.  
Henry Townsend, Lord-Mott Co., Inc., Baltimore, Md.

#### CANNED STRING BEANS

Rodney S. Bell, Kuer Empson Company, Brighton, Colo.  
Fred C. Bush, Bush Brothers & Co., Dandridge, Tenn.  
R. D. Cleaveland, H. J. McGrath Co., Baltimore, Md.  
Howard T. Cumming, Curtice Brothers Co., Rochester, N. Y.  
A. T. Dorgan, Jr., Dorgan Packing Corp., Biloxi, Miss.  
E. R. Lancashire, Blytheville Canning Co., Inc., Blytheville, Ark.  
E. A. McCormack, Eugene Fruit Growers Assn., Eugene, Oreg.  
Arthur L. Relling, Birds Eye-Snyder Division, General Foods Corp., Hillsboro, Oreg.



W. J. Rothrock, Belle Glade Canning Co., Belle Glade, Fla.  
 Norman O. Sorensen, Country Gardens, Inc., Gillett, Wisc.  
 J. H. St. Clair, St. Clair Foods Co., McAllen, Tex.  
 T. Stran Summers, Charles G. Summers, Jr., Inc., New Freedom, Pa.

#### CANNED PEAS

Herbert J. Barnes, Kaysville Canning Corp., Kaysville, Utah  
 A. E. Coddington, Ladoga Canning Co., Indianapolis, Ind.  
 Berkley Davis, Rogers Canning Co., Milton, Oreg.  
 Francis C. Jones, Minnesota Valley Canning Co., LeSueur, Minn.  
 T. C. McCall, Gibson Canning Co., Gibson City, Ill.  
 B. C. Olney, Birds Eye—Snider Division of General Foods Corp., New York, N. Y.  
 Fred A. Stare, Columbus Foods Corp., Columbus, Wisc.  
 Henry P. Taylor, Taylor & Caldwell, Walkerton, Va.  
 S. Charles Walls, Sr., Phillips Packing Co., Inc., Cambridge, Md.  
 Joseph B. Weix, Oconomowoc Canning Co., Oconomowoc, Wisc.

#### Truck Maintenance Bulletin

A pamphlet entitled "Rehabilitation and Preventive Maintenance," dealing with the Office of Defense Transportation's rehabilitation program for trucks and buses and the kindred subject of preventive maintenance measures to maintain existing transportation equipment, is available at the Office of Information, Office of Defense Transportation, Washington 25, D. C.

The 13-page booklet discusses 1944 prospects for civilian commercial motor vehicles, the ODT truck rehabilitation program for 1944, preventive operation, preventive maintenance, and a short guide for having vehicles checked and repaired in filling stations, garages and repair shops after 1,000 miles of operation.

The rehabilitation program involves the exchange of worn engines, transmissions and differentials for rebuilt components with a minimum truck or bus lay-over in shop. Its purpose is to expedite reconditioning of older vehicles.

dustry as a whole is not able to absorb the increased costs without jeopardizing its rate of peacetime earnings during the pre-war period selected as representative for that particular industry. Mr. Brownlee took the position that it was not proper that each price schedule should allow a profit on each product to each producer. He relied upon his original position that an industry which is making during wartime as much money as it made as a whole in representative pre-war periods is not suffering hardship. Mr. Brownlee, never the less, admitted that adjustments for individual producers should be made where the adjustments are necessary to keep all producers in production. He emphasized, however, that this policy applies only to products of which the war effort requires maximum production. This policy does not apply, he testified, to producers of non-essential commodities. In this latter case adjustments are only made for low-cost producers, and no adjustments are made for high-cost producers.

Mr. Brownlee concluded his testimony by urging that price control not be abruptly dropped with the termination of the war. He foresaw that the need for price control will continue for some unknown time after the war to be as necessary as during the war. At the same time, however, Mr. Brownlee proposed that long range preparations should be undertaken for the eventual removal of price control.

On Tuesday, March 21, the Deputy Administrator for Rationing, Colonel Bryan Houston, testified concerning the policies of rationing. Col. Houston emphasized that rationing only operates effectively when the supply is less than 85 per cent of demand. When the supply of an article is greater than 85 per cent of the demand he testified that the line of "plenty" is being approached and, "you can not ration plenty".

Col. Houston, however, refused to state specifically when this line might be reached or for what commodities it might be reached within any specific period.

Col. Houston emphasized that the OPA does not make the determination of what articles are to be rationed. This is done, he said, by the supply agencies. The job of OPA, when it is directed to ration certain products is: To determine the available supply; to determine who requires the available supply; to decide upon the ration plan best suited to control the available supply; to determine the administrative structure which will best administer the ration program; and to analyze the authority available to conduct the proposed ration authority.

#### OPA HEADS EXPLAIN POLICIES TO SENATE COMMITTEE

##### Administrators Urge Continuance of Emergency Price Control Act

Hearings before the Senate Committee on Banking and Currency were continued during the past week on the proposals to extend the life of the Office of Price Administration. The Committee devoted itself to testimony by various OPA Deputy Administrators who continued to follow the line for requested reenactment of the Emergency Price Control Act without change as set out by Price Administrator Bowles on the first day of the hearing (See last week's INFORMATION LETTER).

James Brownlee, Deputy Administrator for Price, testified concerning pricing policies and problems of the OPA. One of the most interesting points of his testimony was his definition of what constitutes a "generally fair and equitable price". The Emergency Price Control Act requires, as is well known, that the Price Administrator may establish such maximum prices as in his judgment will be generally fair and equitable. There has been substantial discussion of this ambiguous phrase ever since the statute was enacted on January 30, 1942.

The official interpretation of this phrase, as far as the interpretation has been publicized and understood, is that the maximum prices shall be computed on an overall industry basis which will give to the particular in-

dustry profits comparable to some representative pre-war period. A corollary of this rule has been that individual operators in the industry are not assured or guaranteed any profits, and that, as between different products produced by a single member within the industry, the maximum prices for that particular member shall be examined on the basis of the overall profits received in his business rather than on the basis of the profits allocated to a particular article. This interpretation was reiterated by Mr. Brownlee to the Senate Committee. He stated that a generally fair and equitable price is one which insures the industry as a whole returns equal to the returns which the industry received in some pre-war period.

Mr. Brownlee answered criticisms that the OPA is attempting to control profits rather than prices. He pointed out that prices by economic necessity are the result of costs and of profits; therefore it was his opinion that it is impossible to regulate prices without consideration of profits.

With respect to cost increases brought about by wartime conditions, Mr. Brownlee declared that the Act does not require maximum price increases to be made to reflect cost increases. He testified, however, that a price increase is authorized as a result of cost increases if it is determined that an in-

## DISPOSITION OF SURPLUS STOCKS

(Continued from page 8131)

either the distributor or the retailer. The latter groups usually maintain a greater degree of flexibility in their operations and might refrain from making commitments in the face of uncertainties. The canner, or other seasonal food processor, on the other hand, must determine early in the season just what the extent of his operations is to be and to what extent he can afford to make commitments on the basis of high costs in the face of large surpluses.

In like fashion, the grower of canning crops is intimately concerned with the problem of orderly disposition of surplus foods. Anything that has an impact upon seasonal operations and the extent to which acreage may be contracted, as well as the price which may be offered for raw material in the face of market uncertainties, necessarily is of interest to producers. Both the canner and the grower of canning crops must evaluate future possibilities in the light of what has happened in the past.

This entire problem has been reviewed in a study made in August, 1942, by the Division of Historical Studies of Wartime Problems in the Bureau of Labor Statistics of the Department of Labor. The title of this is, "Canned Foods: Withdrawal of the Government from the Market 1918-1920," and it was prepared, as Historical Study No. 51, by Stella Stewart and J. Donald Edwards. One quotation from the discussion of the effects on the industry might be given:

"Buyers delayed their buying because they knew there was a surplus of canned foods even though it was not at the time technically for sale. Uncertainty as to the future level of prices, and a widespread anticipation of sharply reduced price levels encouraged both the purchasers of canned foods and the canners themselves to refrain from commitments. The Quartermaster General's letters in December, 1918, and March, 1919, pledging to withhold the surplus of canned foods from the market, did not change this attitude. Likewise, in January, 1919, the Director of Sales' pronouncement that sale of surpluses would be conducted in such manner as not to disturb the market did not allay the uncertainty as to future price levels. After February, 1919, brokers, wholesalers, retailers, and consumers still expected lower prices, even though canners had announced that cost of materials was so high they could not reduce prices on the coming pack."

I might say further that the commitments of the Quartermaster General were apparently not known to the new Quartermaster General who took over in March, 1919, when thirty cars of surplus canned vegetables were offered for sale solely to avoid demurrage

charges. See *The Canner*, March 8, 1919, pp. 34-38.

2. The subject has been under study by the canning industry for the past three years. We are thoroughly in accord with the suggestion, which we understand has been endorsed by Mr. Baruch, that responsibility for the disposal of surplus stocks should be centered in the War Food Administration.

We are likewise thoroughly in accord with the point made at the meeting of January 14, 1944, and set forth in the minutes. In this the group emphasizes the importance of:

"The necessity of providing some assurance that recommendations of the proposed industry committees be given fair consideration and that the committees not be used merely as window dressing."

3. Our objections center on the precise question as to whether the proposed draft in fact provides any real safeguards in this connection. We appreciate that it is not feasible for a committee of businessmen to be given veto power over an administration official who is responsible for the disposition of such surplus foods. On the other hand, we feel that the essence of the proposals for the functioning of the various advisory committees lies in setting up certain definite procedural requirements which will insure that the recommendations of these committees will be considered and, if rejected, the reasons for such rejection plainly and timely stated.

For these reasons we are respectfully suggesting that subsection (c) of Section 7 be rewritten as indicated in the enclosed draft. In the proposal circulated by Mr. Hendrickson, Section 7 (c) requires merely that some courteous gesture be made in the direction of the Advisory Committee. There is no requirement that the interested committee be furnished with the facts upon which alone intelligent judgment may be exercised and worthwhile recommendations advanced. There is no provision, as in our suggestion, that the committee's advice be taken prior to administrative action.

Most important, there is no requirement that the Administrator hold up his action (except in the case of deteriorating food) until the committee has responded to his inquiries.

Likewise, we feel that the failure to require in Section 11 a particularization of the way in which the administrative action differed from the industry recommendations, renders the report to Congress, and the possibility of Congressional supervision of this important program, somewhat of a nullity.

We feel that the provisions we have suggested are not unduly restrictive and in no way would hamper the orderly disposition of these foods. If those on the particular Advisory Committee concerned with the goods in question do not respond with recommendations within twenty-one days, the Adminis-

trator is free to do what he thinks wise without benefit of industry recommendation. (Goods in danger of deteriorating, of course, may be freely sold pursuant to subsection (e) (ii) of our suggestions.) We anticipate that there will be an active and intelligent interest in this program, and certainly a period of three weeks for intelligent consideration of the disposition of each large block of a particular product does not seem unwarranted.

Requiring the proposed procedural safeguards to operate on any quantity larger than a carload seems desirable since it is well known that the unwise sale of even as small a quantity as a carload may prove completely disruptive of the market for a particular commodity in a given marketing area.

In addition, the disposition of surplus foods in a possibly changing market must be based on a continuing appraisal of the situation. In our suggestions we provide that the Administrator must advise the committee in some detail within ten days after action as to what has been done. The draft previously circulated merely provides for "current" information. This may mean a great deal, or it may mean nothing. If the point is worth dealing with in legislation, it should be specifically treated.

In offering these suggestions we desire to make it clear that we do not lack confidence in the present officials of the War Food Administration. On the other hand, this legislation will continue to control all those who may occupy official positions in the future.

The issue seems clear to us: If the administrative officers are to consult effectively with these committees, a specific machinery should be established for their doing so. That machinery should be followed except where emergency conditions require some other disposition of the surplus stocks. Where emergency conditions do not prevail, a detailed and orderly method of consultation should be prescribed by Congress and not left to possibly changing concepts which may prevail at some later date. The best safeguard against ill-advised action is the requirement that the reasons for action be specifically understood and articulated at the time action is taken.

In order to expedite Congressional consideration, agreement was reached in late February on requesting the introduction of the Draft Act developed up to that time. (See INFORMATION LETTER No. 975, March 4, 1944, page 8104.)

At a recent meeting of the Legislative Committee of the Association, further consideration was given to the proposed legislation, and a memorandum embodying the Committee's views was prepared for presentation both to the administrative agencies concerned, and to the members of the Congressional Committees considering these proposals.

The text of this memorandum follows:

## I.

Beginning in the fall of 1943, consideration was given by the various branches of the food industry, in association with representatives of the War Food Administration, to the desirability of providing by Congressional enactment for the centralized control of the disposition of surplus Government food stocks. Early in January there was crystallized a proposed bill which, in general, provided for centralizing such control in the War Food Administration, for its disposition so far as possible through recognized channels of distribution, for the prevention of speculation, and for the use to some extent of industry advisory committees.

All elements in the Food Industry were in agreement on the primary objectives of the legislation. While certain groups, particularly the processed fruit and vegetable and fish industries, had considerable doubts about the effectiveness of the provisions concerning advisory committees, the proposals under consideration were presented to Congressional sponsors. On February 20, 1944, Mr. Wickersham introduced H. R. 4281, and on the same day Mr. Landis introduced an identical bill, H. R. 4288.

This memorandum covers two suggested changes in these bills.

## II.

In the meantime, on February 15, 1944, the so-called Baruch Report was issued. This suggested the creation in the Office of War Mobilization of a Surplus Property Administrator, and the establishment of a Surplus Property Policy Board, with the Administrator as Chairman with full and final authority. It likewise suggested four major outlets to handle actual disposal, each in a clearly defined field. The fourth of these was:

"(d) Food to the Food Administrator."

The Baruch Report likewise suggested among its ten broad policies the following two:

"5. Sell as in a goldfish bowl, with records always open to public inspection.

"6. As far as practicable, use the same regular channels of trade that private business would in disposing of the particular properties."

The Baruch Report further recommended that the Surplus Administrator should "report to Congress as soon as possible on legislation needed, basing his recommendations on actual experience with the problem."

Four days later, on February 19, President Roosevelt issued Executive Order 9425, which appointed in the OWM the Surplus War Property Administrator, and the Administrator,

requested in the Baruch Report. Paragraph 2(c) of this Order authorized the Administrator "to assign . . . surplus war property for disposition, . . . [and to assign] food to the War Food Administration."

This very broad Executive Order apparently contemplates no further immediate legislation. Likewise, it makes no provision for consultation with the industry in connection with the disposition of surplus foods, and contains no provisions with respect to reports to Congress in connection with such activities.

## III.

In view of the importance of providing for orderly disposition of surplus foods, particularly those produced seasonally, it is recommended that immediate Congressional consideration be given to the pending proposals.

In such consideration two key problems, concerning which there are many differences of opinion among food manufacturers or processors, relate to the use which in reality will be made of industry advisory committees, and to the question of reports to Congress.

1. The Food Industry Task Committees considering this question emphasized, in their report, the importance of "the necessity of providing some assurance that recommendations of the proposed industry committees be given fair consideration, and that the committees not be used merely as window dressing."

It is admittedly not feasible for a committee of businessmen to be given veto power over an administrative official who is responsible for the disposition of surplus foods. On the other hand, there is no point in having an ineffectual advisory committee—and no intelligent and informed interest on the part of businessmen can be enlisted unless there is some specific provision guaranteeing effective functioning of the committee.

Section 7(c) of H. R. 4281 and H. R. 4288 substantially requires merely that some courteous gestures be made in the direction of the advisory committee. There is no requirement that the interested committee be furnished with the facts upon which alone intelligent judgment may be exercised and worthwhile recommendations advanced. There is no provision that the committee's advice be taken prior to administrative action. Likewise, there is no requirement that the Administrator await a timely committee response to his inquiries.

A great many people feel that the only possible and practicable method for achieving these objectives is to spell out in complete detail a series of requirements to be followed by the Administrator. These would leave him free to act, but would require him to act in accordance with a series of procedural safeguards.

On the other hand, some feel that the spelling out of a detailed procedure

by Congress is unnecessary and might, under some circumstances, hamper the orderly disposition of these foods. Accordingly, it has been recommended that in place of Section 7(c) of these bills, the following language might be employed. (The additions are indicated by italics):

"(c) *Utilize in the disposition of any excess food pursuant to subsections (c) and (d) of Section 5, the appropriate advisory committee appointed pursuant to Section 4(b), by (1) furnishing to such committee sufficient information relating to the commodity or product in such summary form as he may deem appropriate to enable the committee to act effectively; (2) consulting with, and obtaining and considering recommendations from, such advisory committee prior to disposing of any commercial quantity of the commodity or product concerned except where, in the judgment of the Administrator, conditions of marketing make prior consultation impracticable; and (3) currently informing the committee of all action taken, both consonant and not consonant with its recommendations, and the reasons therefor.*"

2. In this same connection, it is felt that the reports to Congress required by Section 11 should particularize the activities of the War Food Administration in disposing of these surplus foods. In particular, there should be presented for Congressional scrutiny, a statement showing the degree to which administrative action has been in keeping with or has not followed the recommendations of the Food Industry committees. It is doubtful whether any serious objections can be urged to this addition to Section 11, which would make it read as follows (added language being indicated by italics):

"Sec. 11. The Administrator shall from time to time, and not less frequently than once each calendar quarter, transmit to the Congress a report of the operations under this act, *particularizing the recommendations of the various committees appointed pursuant to Section 4 and the action taken either in consonance or not in consonance with such recommendations, and the reasons therefor, and also the extent to which dispositions were made without prior consultation with such committees.*"

With these changes, it can be stated that H. R. 4281 and H. R. 4288 are unanimously recommended for passage by every segment of the Food Industry, including manufacturers, processors, distributors, and retailers, as providing effective safeguards in the public interest in this important activity which, if handled well, can promote post-war prosperity, but which, if handled ineptly and without wisdom, can serve to wreck many branches of the food processing industry and the farmers whose commodities they process.



### Six Plants Earn "A" Award

For outstanding performance in food production, six more food processing plants in four States have earned the War Food Administration achievement "A" award, WFA announced March 25. These bring the number of plants to receive the award to 88.

WFA's office of distribution said award presentation ceremonies will be held in the near future for the following:

Bireley's Division of General Foods Corporation, Hollywood, California.

Gerber Products Co., Fremont, Michigan.

David Harum Canning Company, Homer, New York.

Edgar F. Hurff Co., Swedesboro, New Jersey.

Reld Murdoch & Co., Ellsworth, Illinois.

P. J. Ritter Company, Bridgeton, New Jersey.

### GLASS ORDER AMENDED

#### Changes Relate to Closures and Restrictions on Use of Containers

Supplementary Order L-103-b governing the use of glass containers and closures was amended March 23, 1944. This order lists the only products that may be commercially packed in new machine-made glass containers or with new metal closures.

Order L-103-b for 1944 was published in the INFORMATION LETTER of January 8 and a correction was published on page 8084 of the LETTER of January 20. The only item that has been added to the order is 68a, Syrup—chocolate, but other changes in the order as previously published have been made.

With respect to "Restrictions relating solely to manufacture of closures," the following amendment is made:

(4) No person shall use for the manufacture of closures, any tinplate with a tin coating in excess of 0.50 pound per base box except as follows: 1.50 tinplate may be used to make closures for packing items 1 to 40, inclusive, in Schedule I. However, even in the case of these items all persons are urged to use 0.50 tinplate whenever possible.

The "Exceptions relative to glass containers only," are amended to read:

(t) Glass containers of non-permitted sizes manufactured prior to January 4, 1944. A packer may accept and use, for packing any product listed in the schedules of this order, any glass container which was manufactured before January 4, 1944, even though the container is of a size which is not permitted for that product by the schedules. Such acceptance and use must

be in accordance with the quota provisions of this order and with the provisions of Order L-103.

(u) Quota status of glass containers in inventory as of January 1, 1944. Glass containers in the possession of a packer as of January 1, 1944, may be used by him for packing any listed product as follows:

(1) Quota free, if accepted for packing a product which had a limited quota in 1943 (unless "borrowed" as described in point 3 of this paragraph).

(2) Within quota, if accepted for packing a product which had an unlimited quota in 1943.

(3) Within quota if borrowed against anticipated 1944 use as permitted in paragraph (e) of this order as amended November 1, 1943.

The following paragraph is added to the introduction to "Schedule I—Foods":

(iii) Closures made of aluminum may be used for any product listed in this schedule for which aluminum closures were used in 1939, 1940 or 1941. However, all aluminum closures must be used within, and charged to, the quotas established by this schedule.

### House Defeats Appropriation For Farm Wage Stabilization

An amendment offered by Representative John Z. Anderson of California to add an appropriation for the War Food Administration farm wage stabilization program to the 1945 Department of Agriculture appropriation bill, which was reported without continuing appropriations for this program, was defeated on March 23 in the House.

Representative Anderson urged that the appropriation, which the House Committee on Appropriations refused to recommend in its report, be granted for the continuance of the wage stabilization program for farm laborers. He described the high wages demanded and received by asparagus and bean workers in California, and contended wage stabilization was necessary to avoid inequities.

Opponents of the amendment objected to complete country-wide control of farm labor. The farm wage stabilization program, which would be discontinued, now is administered by the WFA Office of Labor.

### Shipping Container Restrictions

Limitation Order L-317 on the manufacture and use of fiber shipping containers, as amended March 23, further restricts the use of any solid fiber (.45 or heavier) or corrugated fiber for the production of containers for the ship-

ment of a number of products, among which is dried fruit.

Under the amended order, containers for dried fruits may be used in an amount equal to the quota period, which is the corresponding three-month period in 1942.

The order does not restrict the use by canners of domestic cases, but restricts canners' use of V-boxes to government requirements. Canners obtain their shipping case supplies under the terms of Order P-146.

However, both the WPB and the War Food Administration, in statements regarding the amended L-317, urge the food industries to practice the greatest possible conservation on their own. WFA suggests—

1. Redesign of containers to the end that more food may be packed by the same tonnage and square foot area of containerboard.

2. Greater utilization of used containers.

3. Increased use of substitutes for paperboard containers.

4. Other practical forms of conservation which are applicable to the particular shipping problems of the food processor or food shipper.

### Ceiling for 13-oz. Milk Can

At the request of certain government procurement agencies, ceiling prices have been established for a non-existent 13-ounce "domestic" can of evaporated milk, the Office of Price Administration announced March 21, in issuing Amendment No. 29 to Maximum Price Regulation No. 289.

The procurement agencies, for shipping reasons, desire a 13-ounce "export" can.

The ceilings established under the amendment, which became effective March 25, are in line with those previously established for the ordinary 14½-ounce container.

OPA officials realize that evaporated milk has not as yet been, and possibly never will be, prepared in a domestic 13-ounce container. However, it was necessary to fix prices for such a "domestic" 13-ounce can to facilitate the pricing of evaporated milk prepared for and packaged in a 13-ounce "export" container.

The standard 14½-ounce "domestic" and "export" containers have flat top and bottom surfaces which, government procurement agencies declare, has resulted in a great deal of overseas shipment breakage. The 13-ounce "export" can has top and bottom seams which give added shipping protection against breakage.